

Gov. Hagerman's Message to the Legislature

miles long and 100 miles wide, and has in it about sixty districts, yet the superintendent's salary is only \$400. Thus the superintendent receives \$7 per district, to reach which he must travel long distances at considerable expense. Much the same comparison may be made with McKinley county, which has but four schools outside the corporation of Gallup; yet the superintendent receives the same salary as that of Rio Arriba county.

The present system of examining and certifying of teachers is neither entirely satisfactory nor efficient. The Boards of examiners are rarely sufficiently familiar with modern educational conditions and methods to judicially pass upon the qualifications of teachers. As there are twenty-five such boards there can hardly fail to be twenty-five standards for marking the answers to the same questions. Statistics show that these examinations have cost during the past year a little over \$2,000. Conditions in New Mexico differ so widely that it is impossible to frame legislation with sufficient elasticity to properly meet all those different conditions. In some of the states, this whole matter of examining teachers is given into the hands of either the State Board of Education or a Board of Examiners created especially for this purpose.

I recommend that the powers and duties of the Territorial Board of Education and the Superintendent of Public Instruction be enlarged, and this matter be entrusted to them. By doing so it may be more satisfactorily done, and at least 60 per cent of the expense will be saved.

It is a well recognized principle that a free democratic people must be educated. It is well for us, humiliating though it may be, to know just where New Mexico stands in intelligence. According to the reports of the United States Commissioner of Education for 1900, New Mexico stood 47th in a column of 50 for illiteracy. The per cent of the illiterate population above ten years of age in New Mexico was 32.2 while the average of the whole United States was about 10 per cent of the entire population. It is gratifying to state, however, that between 1890 and 1900 the per cent of illiteracy decreased from 44.5 to 32.2. There has been a decrease from forty-four and 5 to 32.2 per cent and has doubtless decreased since 1900. In a commonwealth every citizen is directly interested in the education of every other. To have universal education the rich must help the poor, the strong the weak. In some states a state-tax is collected in proportion to the assessed valuation, and distributed in proportion to the school enumeration. In Indiana, for instance a tax of 11c on the \$100 is assessed and distributed in this manner. A letter just received from the State Superintendent of Public Instruction gives the following concrete examples of taxes paid in and received in return. These statistics are taken from his late January report:

Henry County paid in Treasury \$11,690.80 and received in return \$7,125.66.
Marion County, paid into Treasury, \$95,936.52 and received in return \$79,910.95.
Montgomery County paid into Treasury \$14,123.64 and received in return, \$11,793.21.

Warren County paid into Treasury \$6,250.69 and received in return \$4,292.86.
Clay County paid into Treasury, \$7,702.42 and received in return, \$15,405.39.

Crawford County paid into Treasury \$1,565.38 and received in return, \$6,001.71.

Dubois County paid into Treasury, \$3,885.06 and received in return \$9,972.51.

Perry County paid into Treasury \$2,180.72 and received in return, \$9,233.51.

These are examples only. Thus the strong helps the weak, the rich the poor and the whole people become educated. Before there can be even an approximate uniformity of education in New Mexico, something of the same principle must be resorted to.

Experience shows that the best system of raising money for educational purposes is a judicious combination of State and National aid with local taxation. This territorial appropriation might be made on condition that it be reasonably supplemented by local levies. Our laws providing for special levies are amply sufficient, if the people will use them. But, only a comparatively small portion of the country districts avail themselves of this privilege. In short, local taxation for school purposes is very small but some people do not know the value of education. Those that do cannot afford that these, their neighbors and fellow citizens remain ignorant. Therefore, as a matter of self protection, they must help to get the ignorant

wakened up to their privileges. Militia.

While the force of the National Guard of the Territory is in number not great, the officers and men deserve much credit for the way in which they handled themselves both at the practice encampment which took place with the members of the National Guard of other States and troops of the Regular Army at Austin Texas, in August last, and at the rifle competition at Seagirt in September.

Members of our militia were deservedly complimented by the United States officers on both of these occasions.

It is in spite of many handicaps that the Territorial Militia is kept up to a state of efficiency in time of peace, and much credit is due to the efficient supervision of Adjutant General Tarkington. The War Department at Washington is taking increasing interest in the military organizations of the States and Territories, and the amount appropriated by the Federal Government for New Mexico has been increased during the past year. This appropriation, however, can be used only for certain specific purposes, and in order to continue the receipt of it it is necessary that our militia pass rigid annual inspections.

One of the gravest drawbacks against the maintenance of our military organization is the lack of armories. I therefore join in the recommendation of the Adjutant General that the appropriation for armory rents be increased, also that a reasonable appropriation be made enabling him to employ clerical assistance for part of the year.

Slight increases in these two respects would result in greatly increasing the efficiency of our militia.

Irrigation Laws.

The last legislature passed a very comprehensive law creating the office of Territorial Irrigation Engineer and to promote irrigation development. In many respects the law was a good one, but from the experience of the past two years it has in general proven too extensive to be properly carried out in New Mexico. Its general provisions as to water rights, appropriation and eminent domain, etc., are satisfactory. The provisions as to the duties of the engineer would be useful if the duties defined were carried out. The law further provides for dividing the Territory into water divisions, and for the appointment of an irrigation commissioner from each division, which commissioner with the engineer shall constitute a board of control. These commissioners are given a great many specific duties which, if fulfilled, would necessitate that each one of them should be an irrigation engineer of experience and also that they should give their full time to the duties of the office. Such men cannot be obtained and therefore that part of the law, in regard to the board of control has, according to the opinion of its members themselves, proven futile and almost entirely barren of results. The meetings of the board as provided by law incur an unnecessary expense to the Territory.

The most useful work that can be done by the Territorial Irrigation Engineer is to obtain and compile full and accurate statistics in regard to the flow of streams and irrigation possibilities of the Territory, for the purpose of encouraging the construction by private capital, or otherwise, of irrigation enterprises, which will inure to the benefit of the Territory. The law provides for such work, but very little has been done. Much of the future prosperity of the Territory depends upon the work done within her boundaries by the National Reclamation Service. Already several very important projects have been inaugurated by that service, and it is reasonable to expect that others will be. Their investigations result not only in the building of projects by the Federal Government, but in the encouragement of private corporations to build them.

I have received intimations from the Engineer in charge of the Reclamation Service, that he would be willing to co-operate with the territorial authorities in hydrographic work and in investigations of matters pertaining to irrigation. In a number of western States they have already arranged a satisfactory form of co-operation with the State Engineer. In such co-operation the Federal Government generally contributes one-half of the expenses and the State or Territorial Government the remainder, frequently by utilizing suitable appropriations made for State engineering operations. In this way, by having a systematic organization, and by following methods of work developed through years of experience, be able to produce results of value to the State or Territory and to the Government with the highest economy.

The Reclamation Service indicates that it would be practical for them to aid in greatly increasing the value of investigation of water resources of New Mexico, and obtain facts of vital

importance to the Government and the Territory in this manner.

I deem it highly desirable that this co-operation between the territorial government and the National Reclamation Service be brought about. In order to bring it about with the best economy our law should be changed in certain respects to conform more fully with the law suggested by the Reclamation Service, which is in many respects similar to the act passed by the last legislature.

I recommend that all that part of our law relating to the Board of Control be repealed and that our efforts at present at least, be confined to the operations of the Irrigation Engineer himself, on such lines as will bring about the desired co-operation with the Federal Government.

Artesian Wells.

The law providing for the inspection of Artesian Wells and the creation of artesian districts passed by the last legislature, has proven a very wise and useful one. The constitutionality of part of the law was questioned, but was confirmed by the Court. One district comprised Chaves, Eddy and Roosevelt counties was created and an inspector appointed. There are no wells in Roosevelt county. The artesian district in Chaves and Eddy counties is about 60 miles long and 10 miles wide and comprises about 600 square miles.

There are now 301 wells in Chaves county and 166 in Eddy county. Careful quarterly inspections made of the wells in both counties show considerable variance in the pressure at different times of year, dependent apparently, in some degree at least, on the amount of water used. The change in pressure varies in different parts of the district but the result of the observations for the past two years undoubtedly shows a somewhat decreased flow throughout the district, slight in some places and more pronounced in others. Whether this decrease will continue is not certain. If it does, the suggestions made that action should be taken to limit the number of wells drilled should be considered.

Various minor changes should be made in the law to make its enforcement more effective. Very great good has resulted in the law in forcing the capping of uncapped wells and preventing waste.

Superintendent of Insurance.

The law creating the department of Superintendent of Insurance became effective on March 9, 1905, and has proven a source of considerable additional revenue to the Territory. Since its creation up to November 30, 1906 the sums received by the office have amounted to \$34,073.59.

It has also proven effective in forcing a proper supervision on the class of companies doing business in the Territory.

Coal Oil Inspection.

With thoroughly efficient inspection which it is possible, although difficult, to obtain under the provisions of the coal oil inspection law passed by the last legislature, the quality of coal oil and gasoline sold in the Territory can undoubtedly be kept up to a higher standard than would be the case if such a law did not exist and were not enforced. It is undoubtedly true that the general quality of both coal oil and gasoline now sold in the Territory is considerably superior to that in use a year ago. This is due to the fact that a more thorough inspection, under the provisions of the act, was inaugurated in May, 1906. The Territory was divided into fourteen districts and a resident deputy inspector was appointed in each district. A specific set of rules and regulations for the guidance of deputy inspectors was drawn up and each was furnished with a full set of testing instruments. Most of these deputies have conscientiously carried out their instructions and carried on careful inspection. A good many shipments of oil have been condemned, resulting almost invariably in no more such shipments to the points where such condemnation took place. A relaxation in the vigilance of the deputies naturally results in the shipment of oil of less good quality into districts under their charge.

The Oil companies are quick to respond if they understand that the law is to be enforced because the fire test imposed by the law while sufficiently high to insure a fairly good quality of oil to the consumer, it is not high enough to impose any hardship on the manufacturers. If, however, the inspectors sometimes relax their vigilance, the companies never do.

The usefulness of the law depends entirely, as is the case with most laws, upon the manner in which it is enforced. With good deputies properly and carefully supervised the law is a good one, otherwise, it is a bad one, because it would sometimes result in putting an official territorial quarantine on a dangerous product. Should the law continue on our statute books, various minor amendments should be made to it.

The Coal Oil Inspector reports that during the year 1906 there were in-

spected 744,140.9 gallons of coal oil, and 243,857 gallons of gasoline. Of this 720,111.9 gallons of coal oil, and 239,087 gallons of gasoline were shipped into the Territory by the Continental Oil Company.

Mounted Police.

The organization of a force of Territorial Mounted Police by the last legislature has proven to be a wise measure and one which has resulted in great good to the people of the Territory. As shown by the report of the Captain of the Force the total cost of the company from April, 1905, to January 1, 1907, was \$22,981.46, or an average of \$1,094.35 per month. As the Captain remarks in his report, this would appear at first glance as a new charge to the taxpayers of the Territory, when in reality a large portion of this money would have been paid by the counties to their local officers had the mounted police not been in existence. The number of arrests by the members of the force has been large which, in itself, shows great activity. But aside from the good effects of the organization in materially aiding in the enforcement of the law, the great good which has been accomplished is in preventing infringements of the law. This has resulted not only in a much larger financial saving to the Territory than the amount paid out for maintaining the organization, but what is of much more importance, in the saving of life and property and instilling into bad people of many parts of the Territory, a greater fear of the law and assuring to good citizens a greater degree of safety and confidence. There are now very few of the local officers in various counties who do not welcome the aid of the members of the force. The latter respond as promptly as possible when they are called upon by such local officers; but they do not in any way force their service unless the exigencies of the case make it imperative.

I believe a large majority of the people of the Territory are strongly in favor not only of seeing the organization continued, but of giving it some what more power for good. I therefore join in the recommendation of the Captain of the Mounted Police that the salaries of the privates may be slightly increased and that three more men and a clerk be added to the force.

Territorial Depositories.

Section 255 of the Compiled Laws of 1897 provides that only banks with a paid up capital of \$50,000 are entitled to become depositories of territorial funds, and as the national banking act allows the organization of national banks with a paid up capital of \$25,000, and our territorial laws provide for the organization of banks of discount and deposit with a \$30,000 paid up capital and also allow the establishment of savings banks with as low a paid up capital as \$15,000, all of these banks located in the more sparsely settled communities of the Territory, and having small capital, are barred, under the said section 255 from making application and qualifying as territorial depositories. As a result the Territory has at all times more or less funds on hand that do not draw interest, for the reason that we do not have in the Territory a sufficient number of larger capitalized banks to apply for the cash balances carried on an average in the hands of our territorial treasurer.

At the present time the treasury has funds to the amount of about \$90,000 in excess of the applications of banks of the Territory which are eligible to become depositories. During the years 1907 and 1908, \$150,000 of territorial bonds will mature; \$50,000 May 1907, \$50,000 November, 1907 and \$50,000 May, 1908, after which time no more territorial bonds will become due and payable until 1919, and the sinking fund for the redemption of bonded indebtedness will continue to grow until that date, and in view of this condition I would recommend that section 255 of the Compiled Laws of 1897 be amended as follows: by striking out the words "fifty thousand" in the third line and inserting in lieu thereof the words "twenty-five thousand". This would largely increase the number of depositories and would insure that all funds in the treasury not needed for immediate use could draw interest, and mean an increased revenue to the territory of at least \$1,500 per year.

I further recommend that an act be passed making it the duty of the several Boards of Regents of the several public institutions to designate one or more depositories for moneys of such institutions, which depositories shall be either a national bank, or a bank organized under the territorial laws, and that each such depository shall give a bond to the Territory in a sum equal to the probable amount such depository may have deposited with it at any one time, and such depository shall pay interest on monthly average balances as may be agreed upon by such depository and such boards.

Public Lands.

I invite your very close and serious consideration to the comprehensive re-

port of the Commissioner of Public Lands, in which he fully sets forth the conditions now existing in regard to the lands granted to the Territory for the benefit of territorial institutions under the Act of Congress of June 21, 1898. He shows the inconsistencies in the territorial laws relating to the management of these lands and makes full recommendations for the amendment of these laws, and for the enactment of new ones, some of which it is absolutely necessary should be enacted in order to bring our statutes into harmony with rulings which the Department of the Interior has made during the past two years.

This is a matter which naturally concerns the welfare and future prosperity of all our public institutions, and which it is essential should be properly adjusted at this session of the legislature. Many of the lands selected by the Territory under the Act of Congress are rapidly increasing in value with the constant influx of new settlers into the Territory, and every possible precaution should be taken to make our lands produce as large an income as possible for the institutions, for the benefit of which they were granted to the Territory. This cannot be done without some radical changes in the laws.

Forest Reserve Ten Per Cent Fund.

In the Agricultural Appropriation Act for 1907, approved June 30, 1906, found on page 17 of the Act making an appropriation for the Department of Agriculture, the following provision is contained:

"That ten per centum of all money received from each forest reserve during any fiscal year, including the year ending June 30, 1906, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial Legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated; Provided, That when any forest reserve is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportioned to its area therein: And provided further, That there shall not be paid to any State or Territory for any county an amount equal to more than forty per centum of the total income of such country from all other sources."

This provision of the Federal Law was called to my attention by the Comptroller of the Treasury who decided that the provisions contained in said Act did not authorize the payment to any State or Territory of an amount greater than 40 per cent of the total income from all sources of the counties in which the forest reserves are located.

In order to carry out the provisions of the Act I was requested by the Federal Government to furnish a statement showing the total income for the past year, from all sources, of the counties in this Territory in which reserves are located in whole or in part, and upon investigation found the total receipts from all sources for the fiscal year ending June 30, 1906, of such counties were as follows:

Grant	\$112,526.01
Lincoln	42,505.73
Mora	39,009.83
Otero	83,023.67
Rio Arriba	50,752.91
Roosevelt	26,329.38
Sandoval	22,351.19
San Miguel	151,188.10
Santa Fe	92,941.43
Sierra	42,284.64
Socorro	92,979.18
Taos	29,784.65

The Federal Government being satisfied that the amount available under the Act cited above, for the Territory of New Mexico, did not exceed 40 per cent of the total income of such counties, the Treasury Department on December 12th last sent me a warrant for \$4,672.70, representing 10 per centum of all money collected from forest reserves located in New Mexico. This sum was received from the said reserves as follows:

Gila	\$2,479.07
Jemez	1,520.55
Lincoln	256.78
Pecos River	226.72
Portales	189.58

The amount has been deposited with the Territorial Treasurer with instructions to hold same pending its proper disposition under the Act of Congress by the Territorial Legislature.

It therefore becomes the duty of this Legislature to pass a law for the disposition of this money, and of all further sums of money which shall be paid in the future to the territorial government for the same purposes, and I desire especially to call your attention to that provision of the law which says that the legislature may expend these sums for the benefit of the public schools and public roads of the county or counties in which the reserve is situated. The law also limits the action of the legislature by providing that when a forest reserve is in more than one county, the

distributive share to each county the proceeds of said reserve shall be proportional to its area therein. The amount of income from this source will doubtless greatly increase from year to year, both on account of the larger amount of fees received from the reserves which were established when the last year's distribution was made, and because of the large acreage of new reserves which have since been established. I recommend your careful consideration in the preparation of a law for the disposition of this income. The total acreage of forest reserves in New Mexico at present is 6,982,406.

Game Laws.

Conditions in the Territory in respect to the protection of game and fish have somewhat improved in the past two years, and many of our game birds and animals are now more numerous than for some time, but, owing to the fact that the Territorial Game Warden has not received sufficient support from the territorial and county peace officers and from the courts and because of defects in our laws, such improvement is by no means what it should be.

The passage of a new game law providing for the license system, which has been adopted in thirty-six States is urgently needed. The plan for raising funds for the protection of game by the sale of licenses, has proven the most successful thus far devised. The funds derived from this source are many States very considerable and are usually used directly for the protection of game. The protection of our wild animals and birds is a matter of great importance, and I highly recommend that you pass a law, which will make it possible for the Game Warden to afford such protection in fact as well as in the

Medical Law.

The Territorial Board of Health strongly recommends certain changes in the present law regulating practice of medicine in New Mexico. A large majority of the States of the Union have laws providing that applicants for license to practice medicine must present a diploma from a reputable medical college and also pass a satisfactory examination. The New Mexico law requires only that the applicant shall be a graduate of one of the medical colleges listed by the Board of Health, and makes no provision for any kind of examination a situation which for several reasons frequently results in great injustice to worthy applicants, and also in the issuance of licenses to some unworthy ones. In this Territory applicants for the practice of law, of dentistry and of pharmacy must submit to examination, and I heartily concur in the recommendation of the Board of Health that a law be passed making it necessary that applicants to practice medicine shall not only have certificates from reputable medical colleges, but also pass examinations satisfactory to the board.

Uniform Divorce Law.

The President of the United States in his message to Congress on January 30, 1905, said:

"The institution of marriage is a course at the very foundation of social organization and all influences that affect that institution are of vital concern to the people of the country. There is a widespread conviction that the divorce laws are grossly lax and indifferently administered in some of the States, leading to a diminishing regard for sanctity of marriage relation. Hope is entertained that co-operation amongst the several States can be secured to the end that there may be enacted upon the subject of marriage and divorce uniform laws containing all possible safeguards for the security of the family."

And again in his message of December 3, 1906, he said:

"At present the wide differences in the laws of the different States on this subject result in scandals and abuses; and surely there is nothing so vitally essential to the welfare of the nation; nothing around which the nation should so bind itself to throw every safeguard as the home life of the average citizen."

In accordance with the suggestion of the President, Governor Pennypacker, of Pennsylvania called a congress of the various states to meet at Philadelphia on November 13, 1906 to draw up a divorce law to be submitted to the legislatures of the various States. In order to secure as nearly as might be possible, uniform statutes upon the subject of divorce throughout the nation. Delegates from over forty states and Territories were represented at the Congress including among the number many statesmen and lawyers of prominence. New Mexico was represented by Mr. Tracy Tobin who deserves credit from the people of the Territory for the part he took in this important congress. The Congress after its session from February 19 to February 23, 1907, on November 13 and 14, 1906, for further careful consideration drew up a uniform law relating to the subject of marriage and divorce, to be